

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

\* \* \*

HEATH VINCENT FULKERSON,

Plaintiff,

v.

JAMES HARDIE BUILDING PRODUCTS,  
*et al.*,

Defendants.

Case No. 3:20-cv-0516-MMD-CLB

ORDER

*Pro se* Plaintiff Heath Vincent Fulkerson brings this action under 42 U.S.C. § 1983. Before the Court is the Report and Recommendation (“R&R” or “Recommendation”) of United States Magistrate Judge Carla L. Baldwin (ECF No. 6), recommending the action be dismissed, with prejudice, for failure to state a claim. Plaintiff had until December 16, 2020 to file an objection. To date, no objection to the R&R has been filed. For this reason, and as explained below, the Court adopts the R&R, and will dismiss the action with prejudice.

The Court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). Where a party fails to object to a magistrate judge’s recommendation, the Court is not required to conduct “any review at all . . . of any issue that is not the subject of an objection.” *Thomas v. Arn*, 474 U.S. 140, 149 (1985); *see also United States v. Reyna-Tapia*, 328 F.3d 1114, 1116 (9th Cir. 2003) (“De novo review of the magistrate judges’ findings and recommendations is required if, but *only* if, one or both parties file objections to the findings and recommendations.”) (emphasis in original); Fed. R. Civ. P. 72, Advisory

1 Committee Notes (1983) (providing that the Court “need only satisfy itself that there is no  
2 clear error on the face of the record in order to accept the recommendation.”).

3 Because there is no objection, the Court need not conduct de novo review, and is  
4 satisfied Judge Baldwin did not clearly err. Here, Judge Baldwin recommends dismissing  
5 the action with prejudice because Plaintiff failed to file an amended complaint curing the  
6 deficiencies outlined in the screening order (ECF No. 4) after being warned that failure to  
7 do so would result in the issuance of a Recommendation that the action be dismissed for  
8 failure to state a claim. (ECF No. 6 at 1.) The Court agrees with Judge Baldwin. Having  
9 reviewed the R&R and the record in this case, the Court will adopt the R&R in full.

10 It is therefore ordered that Judge Baldwin’s Report and Recommendation (ECF  
11 No. 6) is accepted and adopted in full.

12 It is further ordered that this action is dismissed, with prejudice, for failure to state  
13 a claim.

14 It is further ordered that the Clerk of Court enter judgment in accordance with this  
15 order and close this case.

16 DATED THIS 21<sup>st</sup> Day of December 2020.

17  
18  
19   
20 MIRANDA M. DU  
21 CHIEF UNITED STATES DISTRICT JUDGE  
22  
23  
24  
25  
26  
27  
28